

Hard to read

SECRET

Separate Folder

Original by Auditor
Not to Return Office

Handwritten signature and date
1917

ABSTRACT

UNITED STATES OF AMERICA

and the

NEW YORK BANK COMPANY, LIMITED,

SUPPLEMENTAL NAME BOOKS IN ARROWROCK RESERVE

1918.

1918-1919

Handwritten initials
C

TRANSFER CASH

301- Ilc-54

Separate Folder

Draft of June 20, 1918.

1. **THIS AGREEMENT**, made this ^(10th) 10th day of July, 1918, between the **UNITED STATES OF AMERICA**, acting for this purpose by the Secretary of the Interior, under the provisions of the Act of Congress of June 17, 1908 (35 Stat. 308) and acts supplementary thereto and amendatory thereof, known as the Reclamation Law, and particularly Section two (2) of the Act of Congress of February 21, 1911 (36 Stat. L. 928) known as the Warren Act, the party of the first part, hereinafter called the United States, and the **NEW YORK CANAL CO., LTD.**, a corporation organized under the laws of the State of Idaho, the party of the second part, hereinafter called the Company.

2. For the purpose of supplementing the vested water rights now held by the Company and its shareholders and water right holders under that certain contract of March 3, 1908, between the Company and the United States, the United States will furnish the Company the use and benefit of storage capacity in **Strawhead Reservoir** to be used in furnishing a supplemental water supply to the lands of the shareholders and water right holders of the Company hereinafter specified, after July 1st of each irrigation season.

3. The Company will furnish an order and certificate for each tract of land for which water is to be furnished under this contract, describing the tract of land, certifying

AGREEMENT

that New York vested water rights to an amount not less than one-half miners inch per acre has been made inseparably appurtenant to each tract unless separated therefrom as provided in Sec. 20 hereof, or separated therefrom with the written consent of the Secretary of the Interior, with description or number of the stock certificate or water right so made appurtenant to each tract of land and the number of inches or shares in such vested right, and an order authorizing the Project Manager, or other agent of the United States, or its successors in control of the operation of the Boise Project to furnish a supplemental water supply for such tract out of the Arrowrock storage supply herein contracted for by the Company, such orders and certificates to be under seal of the Company and attached to this contract and made a part thereof, but it is understood that this contract will not be signed by the Secretary of the Interior and will not be of any effect unless and until such certificates and orders covering lands to which at least half of the vested water rights of the Company, and its shareholders, have been made inseparably appurtenant, shall have been so furnished by the Company and attached to this contract, but additional orders and certificates in the same form may be attached from time to time after the signing of this contract up to, but not exceeding, the total number of acres to which the said vested rights of the Company and its shareholders may be made appurtenant to an amount of not less than one-half miners

inch per acre.

4. This contract shall insure to the benefit of and be binding upon the successors and assigns of both parties hereto.

5. Lands described in the attached orders and certificates and to which said vested water rights of the Company are made inseparably appurtenant to an amount of at least one-half miners inch per acre, are herein referred to as New York Water Right lands.

6. It is understood and agreed that the shareholders and water right holders of the Company are to continue to receive all the vested water rights at all times to which they are entitled under said contract of March 3, 1906, and reserve all other vested rights, if any, not otherwise provided herein, as long as the same are available from the natural flow of Boise River and nothing herein contained shall lessen or impair any of said vested water rights in any way unless by foreclosure of lien for non-payment as herein provided, and it is agreed and understood that the supplemental water right herein provided to be furnished for said New York Water Right lands shall be a supplemental right from said Arrowrock Reservoir, and the measure of the supplemental or additional water right to be furnished by the United States to said New York Water right lands under this contract shall be the use and benefit

of sufficient storage capacity in Arrowrock Reservoir to furnish a supplemental water supply delivered after July 1st of each year in sufficient amount to make the amount of water delivered to said New York Water Right lands equal and similar in amount as nearly as reasonably practical, to the average water supply furnished after July 1st to similar lands of the Boise Project for which full season water rights are furnished from said project, but in no event shall the United States be obliged to deliver such supplemental water supply for more acreage than the total contracted and paid for by the Company under this contract.

7. If for any reason the said New York vested water rights herein provided to be made appurtenant to the lands described in the attached orders and certificates should not become appurtenant thereto, or should cease to be appurtenant thereto, then the United States shall not be obliged to deliver supplemental water to such tract or to any tract which has not appurtenant thereto such vested New York water rights to the amount of at least one-half inches per acre.

8. The Company will pay the United States as the construction charge for the supplemental water rights to be

ADDITION

furnished to the New York Water Right lands described in the attached orders and certificates, duly signed, certified, and attached to this contract on or before July 2, 1918, at the rate of THIRTY-TWO (\$32.00) DOLLARS per acre of irrigable land, as shown on the approved farm unit plats thereof on file in the U. S. Land Office at Boise, Idaho, and in the office of the U. S. Reclamation Service at Boise, Idaho, including such additional acreage, if any, as is now shown on the plats as non-irrigable, but later shown as irrigable by amended plat of the Secretary of the Interior. If the lands described in any certificate and order hereto attached is a portion only of a legal subdivision and the irrigable acreage of such portion of a legal subdivision is not shown on the farm unit plats, then the Project Manager of the Boise Project will furnish the Company a statement of the irrigable acreage in such portion of a legal subdivision a copy of which statement shall be filed with this contract and shall be of the same effect for the purpose of determining the irrigable acreage in such portion of a legal subdivision as if shown on the farm unit plats.

9. For such supplemental water rights for lands described in such orders and certificates so signed, certified and attached after July 2, 1918, and on or before July 2, 1920, the Company will pay the United States at the rate of THIRTY-FOUR AND SIXTY-FIVE HUNDREDTHS (\$34.65) DOLLARS per irrigable acre, and pursuant to

Section 9 of the Act of Congress of August 13, 1914, known as the Reclamation Extension Act after July 2, of each year thereafter, the construction charge for lands subscribed after such date shall be increased five per centum each year.

10. The construction charge herein agreed to be paid by the Company to the United States shall be due and payable upon the terms stated in Section one of the Act of Congress of August 13, 1914 (38 Stat. 686) known as the Reclamation Extension Act.

11. For the lands described in the said orders and certificates attached to this contract at the time of the execution thereof, the initial installment of five per centum of the said construction charge shall be paid by the Company to the United States at the time of the execution of the contract by the Company and a draft or certified check therefor shall accompany this contract. For lands described in orders and certificates signed and attached hereto after the execution of this contract, the initial installment shall be paid at the time that such additional order and certificate is signed and attached to the contract. The balance of the construction charge shall be due and payable in fifteen (15) annual installments, the first five (5) of which shall each be five per centum of the construction charge and the remainder shall each be seven per centum until the whole amount shall have been paid. The

first of the fifteen (15) annual installments shall become due and payable on December 1st of the fifth calendar year after the initial installment.

12. No interest will be charged on any of said installments if paid when due, but any part thereof which is not paid when due shall be subject to the penalties provided in Section three of the said Reclamation Extension Act of August 13, 1914 (38 Stat. 686).

13. That portion of the Boise Project lying east or northeast of Indian Creek, and south or east of theampa & Meridian Irrigation District and under the Government or New York Canal and above the Ridenbaugh Canal, is herein referred to as the New York Division of the Boise Project. All lands in said New York division to which none of the said vested water rights of the New York Canal Company are made appurtenant as herein provided, are referred to as Project lands. All lands in said New York division which have some of said New York vested water rights appurtenant thereto, but insufficient to furnish one-half minor inch of water per acre to said land, shall be considered New York Water Right lands to the extent of the number of acres for which the said New York vested water rights will furnish one-half minor inch per acre and project lands as to the remainder thereof.

14. Should 50% or more of the vested water rights of the Company and its shareholders under the said contract of March 3, 1908, be subscribed to this contract within four (4) years from date hereof, and made inseparably appurtenant to the lands described in the attached orders and certificates, and 50% or more of the irrigable acreage of the project lands in the said New York Division be duly and properly subscribed by the owners thereof on water right applications for full season water rights from the said Boise Project at the rate of EIGHTY (\$80.00) DOLLARS per acre as announced in the Public Notice of the Secretary of the Interior, or such amount as may be finally determined by Decree of Court or order of the Secretary plus the increase, if any, under Sec. 9 of said Act of August 13, 1914, dated July 2nd, 1917, or such greater rate as may be in effect after July 3, 1918, on account of the provisions of Section 9 of the said Act of Congress of August 13, 1914, within said four (4) years, then the Company will be allowed a credit on each irrigable acre of New York Water Right Lands subscribed under this contract within said four (4) years at the following rate, and will allow the benefit of such credit to the owners of such subscribed New York Water Right Lands at the same rate, the credit per irrigable acre of such subscribed New York Water Right Lands to be that proportionate part of SIX AND TWENTY/THUNDRETHS (\$6.20) DOLLARS per acre that

the irrigable acreage of project lands in said New York Division be subscribed within said four (4) years at the EIGHTY (\$80.00) DOLLAR rate or such greater rate as applies under said Section 9, is of the total irrigable acreage of project lands in said New York Division, so that should all the project lands in said New York Division be so subscribed the rate for said New York Water Right lands would be reduced to TWENTY-SIX AND EIGHTY/THOUSANDTHS (\$26.00) DOLLARS per acre plus the instance, if any, under said Section 9 of the Act of August 15, 1914. One-fifteenth part of the said credit shall be applied on each of the remaining fifteen (15) installments of the construction charge.

15. Should an irrigation district be organized within one (1) year from the date of this contract to include all the irrigable lands in said New York Division, then the United States will contract with said district for the furnishing of such supplemental water rights for all the New York Water Right lands in said district at a rate of TWENTY-FIVE (\$25.00) Dollars per irrigable acre as the construction charge and full Government water rights for all project lands in said district at a construction charge of SEVENTY (\$70.00) DOLLARS per irrigable acre, provided such contract be duly voted by the electors of the district, signed by the district, and confirmed by the court in the manner provided in the State Law as regular,

valid and binding, and should such district be organized either before or after one year from date and contract be made with such district by the Secretary of the Interior, then in that event this contract will be cancelled and all rights thereunder terminated except that installments paid by the Company under this contract on the construction charge for any tract of land will be credited as payments made by the district under said district contract for the same tract of land. If said district is organized it will be provided in the district contract that no greater rate will be charged for project lands in the district than for project lands outside of the district.

16. In addition to the construction charge herein agreed to be paid, the Company will pay to the United States an annual operation and maintenance charge which will be determined and announced each year by the Secretary of the Interior in the manner provided in Section 5 of the said Reclamation Extension Act of August 13, 1914 (38 Stat. 684). For the irrigation season of 1918, and each year thereafter until further notice, the operation and maintenance charge will be FORTY (\$40) CENTS per acre-foot for all water delivered to or for each of the several tracts of land described in the attached orders and certificates from whatever source after July 1st of each year. Provided, that for 1918 and each year until further notice by the Secretary of the Interior,

a minimum operation and maintenance charge of FORTY (\$40) CENTS per acre for water service after July 1st, will be made for each and every irrigable acre in each of said tracts described in the attached orders and certificates whether water be used thereon or not, and until further notice all operation and maintenance charges for each year will be due and payable on March 1st of the year following the year in which the water was delivered. If paid by the Company to the United States on or before the date when due, the operation and maintenance charge for the supplemental water supply herein provided shall be subject to a discount of five (5%) percent as provided in Section six (6) of the said Act of Congress of August 15, 1914, and if not paid when due shall be subject to the penalties provided in said Section 6, which said operation and maintenance charge after July 1st of each year shall cover all water delivered after July 1st out of both said supplemental and vested water rights.

17. Pursuant to the provisions of the said Section six (6) of the said Act of Congress of August 15, 1914 (38 Stat. 685) no supplemental water shall be delivered to the Company or its shareholders under this contract at any time when the Company shall be in arrears for more than one (1) year for the payment of any charge for operation and maintenance or any annual construction charge and penalties, and pursuant to the provisions of the said Section six of the said Act of Congress of August 15, 1914, should the Company be one (1) year in arrears in the

payment of any charge for operation and maintenance and penalties, or any part thereof, all supplemental rights of the Company and its shareholders and supplemental water right holders under this contract shall be subject to cancellation by the Secretary of the Interior at his option, and all payments made hereunder forfeited to the Reclamation Fund.

18. The supplemental water supply to be furnished by the United States under this contract shall be furnished and delivered subject to and in compliance with the provisions of Section two (2) of the Act of Congress of February 21, 1911 (26 Stat. 925).

19. It is understood that the Company has entered into contracts and agreements with its shareholders and water right holders whose lands are subscribed to this contract, in which the said shareholders have authorized the Company to give a lien upon the said shares and the vested water rights in connection therewith for the payment of the charges herein agreed to be paid for the aforesaid supplemental water rights from Arrowrock Reservoir.

20. The amounts herein agreed to be paid by the Company to the United States as installments of the construction charge and the annual operation and maintenance charges for said supplemental water rights shall be a lien upon all the shares of stock and vested water rights described in the attached orders and certificates, or made appurtenant

to the lands described therein, as well as upon the supplemental rights herein provided, and may be foreclosed in the manner provided by law for the foreclosure of a mortgage, and in case the said shares of stock or the said vested water rights should be bid in by the United States in connection with said foreclosure then the United States may at its option remove the said vested water rights from the said lands and use the same elsewhere or at its option may discontinue the delivery of such vested rights.

21. It is understood by the parties hereto that the United States has at all times reserved and intended to use all waste waters derived or resulting from the use of water from the said Boise Project of the United States and it is agreed by the Company and the shareholders whose lands are subscribed hereto, that the United States reserves and shall have the right to all waste or seepage water from the project lands in the said New York division, and also all waste and seepage derived or resulting from the use of the supplemented water supply to be furnished under this contract, and the company and all shareholders and water right holders thereof whose lands are subscribed hereto acknowledge that all waste and seepage water flowing in any natural or artificial waste water channel in said New York Division after August 1st of any year shall be considered to be water resulting from the water supply furnished by the United States

ADDITIONAL

and is reserved to the United States as well as any other waste water not heretofore applied to beneficial use.

23. Whenever the major portion of the lands receiving water from any of the old New York laterals constructed or owned by the said New York Canal stockholders and supplying two or more users, shall have been duly subscribed for supplemental water rights under the terms of this contract, then the operation and maintenance of such lateral will be taken over by the United States upon the execution of a proper conveyance by the owners thereof turning such lateral over to the United States and the said supplemental water supply delivered at the land, or as near thereto as provided by the approved regulations applicable to project lands taking water from Government laterals. That until such laterals are taken over by the United States the supplemental water supply provided for herein will be measured and delivered at the same points provided in said contract of March 3, 1906, between the New York Canal Company, Ltd. and the United States, for the delivery of the vested water rights of the New York Canal Co. stockholders.

24. The United States will improve and repair the laterals so turned over to the United States and install suitable measuring devices where such repairs and improvements are needed to a total cost not to exceed an amount equivalent to

One Dollar (\$1.00) per acre of irrigable land subscribed hereto, which said amount is included in the aforesaid construction charge.

24. The United States and its successors in charge of the said unit of the Boise Project shall have full control over all ditches, gates, and other structures which are required to deliver water hereunder and proper officers and employees of the United States and its successors shall have at all times, the right to access to the premises described in the attached orders whenever it is, in the judgment of the officer or employee in charge of said unit, necessary for them in the discharge of their duties of distributing water, to exercise said control. The Company will secure from its shareholders and water right holders whose lands are subscribed hereto, the ratification of the provisions of this contract by said shareholders and water right holders including the right to control headgates and other devices used in the distribution of water hereunder, and the United States shall not be obliged to furnish or deliver any part of the water supply herein provided for to any shareholder or water right holder of the Company who has not ratified the provisions of this contract.

~~CONFIDENTIAL~~

25. If the Company, or any of its shareholders or water right holders, entitled to receive water under this contract, should at any time feel aggrieved on account of any alleged shortage in the water supply delivered hereunder, such party shall at once report such alleged shortage to the Project Manager in charge of the said Boise Project, who will promptly investigate such alleged shortage, and if he finds that such party is not receiving the proper proportionate share to which he is entitled of the available water supply, will correct the distribution so that the correct proportionate share, as nearly as practical, to which such party is entitled, will be delivered to or for such party at the point or points herein provided, but the United States, its officers or agents shall not be liable in damages on account of any alleged damage to crops or other damage on account of such alleged shortage of water, nor for any costs growing out of any litigation concerning the same.

26. The United States may at its option deliver to the shareholders and water right holders of the Company in lieu of the said storage water from Arrowrock Reservoir an equal amount of water from any other reservoir or source of supply under the control of the United States.

27. No water will be received and no water furnished hereunder for any part or portion of any farm, tract or single ownership of land unless the entire farm, tract or single ownership of land is signed up for water from the Government irrigation system, and the owner of any such farm, tract or single ownership of land having insufficient New York vested water rights under said contract of March 5, 1906, appurtenant thereto to furnish one-half miners inch per acre for the entire irrigable acreage must as a condition to receiving water from the irrigation works of the United States under this contract for any part of said farm or tract sign up the portion thereof not provided with New York water to the amount of one-half inch per acre upon water right application for full Government water right, and make the payment required thereon under the Public Notice and the provisions of the said Reclamation Law. Should the water, or any part thereof delivered by the United States for use upon any of the tracts described in the attached orders and certificates be used on other land or other or greater acreage than that described and paid for in the attached orders and certificates and not included in permanent water right applications in due form duly approved by the Project Manager and in good standing, for full Government water rights, then the right of such landowner receiving water hereunder and using the same upon land other than the land described in the attached orders

and certificates shall immediately terminate and all payments thereon be forfeited to the Reclamation Fund, and no water will thereafter be furnished for any of the tract for which such water delivery was made until both such tract and the additional tract or acreage irrigated from such water supply in violation of the terms of this agreement has been duly and properly signed up either for supplemental water hereunder or full Government water right as the case may be and all payments due thereon have been made.

20. No Member of or Delegate to Congress, or Resident Commissioner, after his election or appointment, or either before or after he has qualified and during his continuance in office, shall be admitted to any share or part of this contract or agreement, or to any benefit to arise thereupon. Nothing, however, herein contained shall be construed to extend to any incorporated company, where such contract or agreement is made for the general benefit of such incorporation or company, as provided in section 116 of the Act of Congress approved March 4, 1909 (35 Stat. L. 1109).

IN WITNESS WHEREOF, the parties have hereto signed their names the day and year first above written.

UNITED STATES OF AMERICA,

By E. C. Hopkins
Assistant Secretary of the Interior.

NEW YORK CANAL CO., LTD.,

By V. H. Thompson
President.

ATTEST:
Eva. H. Smith
Secretary.

(corporate seal).

State of Idaho,
County of Ada

} ss.

On this 2 day of July, in the year 1920, before me,
H. A. Alden, a Notary Public in and for said County, per-
sonally appeared W. H. Thompson known to me to be the
President of the NEW YORK CANAL CO., INC., that executed the
instrument, and acknowledged to me that such corporation
executed the same.

H.A.Alden

Notary Public

Residing at Boise Idaho

My commission expires Nov. 29th,
1921.

(Seal)

RECORDED
INDEXED

RECORDED
INDEXED

157-096
11
(date)